

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CAMBRIDGE UNIVERSITY PRESS;)
OXFORD UNIVERSITY PRESS, INC.;)
SAGE PUBLICATIONS, INC.,)

Plaintiffs,)

Civil Action File No.
1:08-CV-1425-ODE

v.)

MARK P. BECKER, in his official)
Capacity as President of Georgia State)
University, et al.)

Defendants.)

**DEFENDANTS' UNOPPOSED MOTION FOR
CLARIFICATION OF ORDER (DKT NO. 510)**

Defendants respectfully move pursuant to Federal Rule of Civil Procedure 60(a) for a clarification to the Court's Order dated March 31, 2016, DKT #510 (the "Order"). Counsel for Defendants have conferred with counsel for Plaintiffs, and counsel for Plaintiffs have indicated that they will not oppose this motion.

In Section IV of the Order, the Court includes a summary list of the works on which Plaintiffs are entitled to prevail. That list contains seven uses found to be

infringing and is reproduced below. However, Defendants note that three of the seven uses listed were found to be fair within the body of the Order and therefore not infringing.

Maymester 2009:

- *The Sage Handbook of Qualitative Research (Third Edition)* (Professor Kaufmann, EPRS 8500 Qualitative/Interpretive Research in Education I)

Summer 2009:

- *The Sage Handbook of Qualitative Research (Second Edition)* (Professor Kaufmann, EPRS 8510 Qualitative Research in Education II - Data Collection)

Fall 2009:

- *The Sage Handbook of Qualitative Research (Third Edition)* (Professor Kaufmann, EPRS 8500 Qualitative/Interpretive Research in Education II)
- *The Sage Handbook of Qualitative Research (Second Edition)* (Professor Esposito, EPSF 8280 Anthropology of Education)
- *The Power Elite* (Professor Harvey, SOCI 8030 Social Theory I)
- *The Sage Handbook of Qualitative Research (Second Edition)* (Professor Ohmer, SW 8200 Evaluation & Technology)
- *Utilization-Focused Evaluation (Third Edition)* (Professor Ohmer, SW 8200 Evaluation & Technology)

DKT #510, p. 211

For the fourth item on the Court's summary list, *The Sage Handbook of Qualitative Research (Second Edition)* (Professor Esposito, EPSF 8280 Anthropology of Education), the identified work was used in a class taught in the Summer of 2009 rather than the Fall of 2009. Further, on page 78 of the Order, the Court states that

Defendants' use of that work was fair: "Weighting the factors as directed by the Court of Appeals, and weighing all factors together, Defendants prevail on the fair use defense. Accordingly, Sage cannot sustain this claim of copyright infringement for the *Handbook, Second Ed.*" DKT #510, p. 78.

For the fifth item on the Court's list, *The Power Elite* (Professor Harvey, SOCI 8030 Social Theory I), on page 201 of the Order, the Court states that Defendants' use of that work was fair: "The Court finds that the combined weight of factors one and four is still enough to tip the scale in favor of Defendants. Thus, Georgia State's unpaid use of *The Power Elite* was a fair use." DKT #510, p. 201.

For the sixth item on the Court's list, *The Sage Handbook of Qualitative Research (Second Edition)* (Professor Ohmer, SW 8200 Evaluation & Technology), on page 205 of the Order, the Court states that Defendants' use of that work was fair: "Weighting these factors as directed by the Court of Appeals, Professor Ohmer's use of the Handbook, Second Ed. was a fair use." DKT #510, p. 205.

Therefore, Defendants respectfully request that the Court clarify Section IV of the Order identifying the listing of works on which Plaintiffs are entitled to prevail.

Respectfully submitted this 8th day of April, 2016.

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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to L.R. 5.1C and 7.1D of the Northern District of Georgia, that the foregoing Defendants' Unopposed Motion For Clarification of Order (DKT No. 510) complies with the font and point selections approved by the Court in L.R. 5.1C. The foregoing pleading was prepared on a computer using 14-point Times New Roman font.

/s/ Anthony B. Askew

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 8th day of April 2016, I have electronically filed the foregoing Defendants' Unopposed Motion For Clarification of Order (DKT No. 510) using the CM/ECF system which will automatically send an e-mail notification of such filing to the following attorneys of record:

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